

INTRODUCTION

The Governor's Office of Planning and Research (OPR) has compiled this 2002 supplement to the *2000 Planning, Zoning, and Development Laws*. Which includes planning laws chaptered in 2001 and 2002. Statutory changes to planning law appear in bold for additions and as asterisk for deletions. Unchanged sections of the law appear in normal type.

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LEGISLATIVE SUMMARY

The following summarizes the major planning and land use legislation chaptered in 2001 and 2002. These bills are incorporated into this supplement to the 2000 edition of the Planning, Zoning, and Development Laws.

AB 16 (Chapter 33) - Amends various sections of the Education Code. Existing law authorizes a school district to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the school district for the purpose of funding the construction or reconstruction of school facilities. The law authorizes a school district to increase the levy, as prescribed, if state funds for new school facility construction are not available, as defined. This law suspends the operation of the provision authorizing the increased levy until the 2002 statewide general election, or if bonds are approved at the 2002 statewide general election, until the 2004 direct primary election. This law excludes the availability of certain funds for the purpose of making the determination as to whether state school facility funds are available. The law also establishes the Homebuyer Down Payment Assistance Program to provide assistance in payment of the school facilities fee on affordable housing development.

AB 93 (Chapter 946) - Adds Section 21670.3 to, and to add Division 17 (commencing with Section 170000) to, the Public Utilities Code, and to amend Sections 4 and 5 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session). This law establishes the San Diego County Regional Airport Authority as a local entity of regional government with jurisdiction throughout the County of San Diego. The Authority is required to adopt the comprehensive airport land use plan for that county and coordinate the airport planning of public agencies. The law establishes the governing body and structure of the Authority, require the San Diego Unified Port District to transfer the San Diego International Airport to the

Authority, and assign various powers and duties to the Authority regarding the establishment and operation of airports within the county.

AB 133 (Chapter 99) - Amends Section 65080 of the Government Code. This law allows local transportation planning agencies, when adopting their regional transportation plan, to include factors of local significance, including mobility of specific sectors of the community.

AB 212 (Chapter 123) - Adds Section 65051.5 to the Government Code, and Section 33492.114 to the Health and Safety Code. This law guarantees the Santa Ana Unified School District (USD) and the Rancho Santiago Community College District (CCD) a portion of land (100 acres) from the former Tustin Marine Corp Air Station (MCAS) for development of K-12 facilities. No additional MCAS land can be designated to anyone until the 100 acres have been agreed upon for the districts.

AB 369 (Chapter 237) - Amends Section 65589.5 of the Government Code, Section 25395.20 of the Health and Safety Code, and Sections 21080.10 and 21080.14 of the Public Resources Code, relating to housing. It strengthens the housing element law and provides a strong disincentive for local governments to arbitrarily disapprove housing developments designed for low to moderate income households by awarding damages, costs, and attorney fees to a plaintiff in a court action.

AB 452 (Chapter 307) - Adds Section 11010.11 to the Business and Professions Code. Existing law requires the Real Estate Commissioner to examine a proposed subdivision and to issue the subdivider, unless grounds for denial exist, a public report authorizing the sale or lease of the lots or parcels within the subdivision. This law requires, if the subdivision is used for residential purposes, the Commissioner's report to disclose that a prospective buyer or the buyer's designee has the right to negotiate property inspections with the seller under terms mutually agreeable to both parties.

AB 1367 (Chapter 396) - Amends Sections 53091 and 53094 of, and to add Section 65352.2 to, the Government Code. This law requires school districts and local governments to share more information regarding long-term school facilities planning and local land use plans.

AB 1553 (Chapter 762) - Amends Government Code sections 65040.2 and 65040.12 to require the Office of Planning and Research to include guidelines for addressing environmental justice matters in its General Plan Guidelines by July 1, 2003. The environmental justice guidelines shall address methods for planning the equitable distribution of community services, avoiding the over concentration of industrial facilities near schools and residences, avoiding the location of schools and residences near industrial facilities, and promoting more "liveable" communities through transit-oriented development.

AB 1706 (Chapter 597) - Amends Section 13401.3 of the Corporations Code, to amend Sections 14036 and 65089 of, to repeal Sections 14529.5 and 14529.14 of, and to repeal Chapter 5 (commencing with Section 14560) of Part 5.3 of Division 3 of Title 2 of, the Government Code, to amend Section 39 of the Harbors and Navigation Code, to amend Sections 98005, 99317.1, 99317.8, 99317.9, 99317.10, 99318.1, and 99319 of, and to repeal Sections 99317.2 and 99318.4

of, the Public Utilities Code, and to amend Sections 182.7, 182.8, 319, 2108, and 2121 of, and to repeal Sections 172, 183.3, 188.6, and 2105.1 of, the Streets and Highways Code. This law requires the Department of Transportation, in consultation with the Office of Planning and Research, to conduct a statewide rail transportation assessment, that includes both a passenger and a freight rail systems portion. The law requires, on or before October 1, 2002, the Department to submit to the Legislature a report that includes, among other things, an estimate and documentation of statewide unfunded capital and operating needs over the next 10 years for each rail transportation agency.

SB 153 (Chapter 115) - Amends various sections of the Government Code including Sections 65460.2 and 65917. Under previous law, various state and local pilot, demonstration, and other projects and programs of limited duration were created to, among other things, make studies, collect data, and make reports to the Legislature pertaining to, among other things, air pollution, transportation, housing, hazardous waste, and state property. This law repeals certain of these provisions that have become obsolete and makes related technical and conforming changes.

SB 210 (Chapter 176) - Amends Sections 51286, 66426.5 and 66429 [a][2] of the Government Code. The existing Subdivision Map Act provides that a conveyance of land to, among other entities, a governmental agency, including a fee interest, easement, or license, is not considered a division of land for purposes of computing the number of parcels, and provides that a parcel map is not required except under specified conditions. This law includes the conveyance of a leasehold interest to a governmental agency within those provisions.

Existing law authorizes certain documents to be recorded without acknowledgment, certificate of acknowledgment, or further proof. This law includes a certificate of correction for a subdivision final map or parcel map within those provisions. This law also deletes obsolete provisions relating to cancellation of Williamson Act contracts, approval of a final subdivision map for a land project, and formation of fire protection districts.

SB 221 (Chapter 642) - Adds Government Code section 66455.3 requiring that the local water agency be sent a copy of any proposed residential subdivision of over 500 dwelling units within 5 days of the subdivision application being accepted as complete for processing by the city or county. Adds Gov Code section 66473.7 establishing detailed requirements for establishing whether a “sufficient water supply” exists to support any proposed residential subdivision of more than 500 dwellings, including any such subdivision involving a development agreement. When approving a qualifying subdivision tentative map, the city or county must include a condition requiring a sufficient water supply to be available. Proof of availability must be requested of and provided by the applicable public water system. If there is no public water system, the city or county must undertake the analysis described in section 66473.7. The analysis must include consideration of effects on other users of water and groundwater. This requirement does not apply to residential infill projects.

SB 429 (Chapter 117) - Adds and repeals Section 65863.13 of the Government Code. Planning and Zoning Law requires an owner of an assisted housing development to give tenants specified notices prior to the anticipated termination date of a subsidy contract, and to give specified

entities the opportunity to offer to purchase the development. This law provides that the owner shall be deemed to be in compliance with the notice requirement and that the requirement to give the opportunity to purchase shall not apply if specified conditions are contained in a regulatory agreement recorded against the property.

SB 497 (Chapter 873) - Amends various sections of the Subdivision Map Act. Limits lot line adjustments to four or fewer parcels and require lot line adjustments to be consistent with the general plan (§66412). Amends §66475.1 and §66475.2 to provide for the dedication of land in a subdivision for bicycle paths and transit facilities. Amends §66499.35 to require issuance of a conditional certificate of compliance for real property which does not comply with the Subdivision Map Act.

SB 520 (Chapter 671) - Amend Sections 65008 and 65583 of the Government Code. This law requires local general plan housing elements to include consideration of housing for persons with disabilities when analyzing governmental constraints. The bill requires General Plans to address barriers to housing development for persons with disabilities. In addition, SB 520 prohibits localities from taking actions related to planning and zoning that discriminate on the basis of familial status or disability.

SB 662 (Chapter 159) – Makes technical changes to various state code sections including Sections 7074 (enterprise zones), 65584 (regional housing needs), and 65585.1 (SANDAG self-certification) of the Government Code. Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes. This law restates existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 2001, and does not make any substantive change to the law.

SB 919 (Chapter 928) - Adds Section 5405.6 to the Business and Professions Code. This law prohibits any outdoor advertising display, that exceeds 10 feet in either length or width, from being built upon land or rights of way owned by the Los Angeles Metropolitan Transportation Authority (MTA) unless the display complies with the Outdoor Advertising Act, the federal Highway Beautification Act, and certain local provisions. This bill also prohibits MTA from disregarding or preempting any law, ordinance, or regulation of any city, county, or other local agency involving any outdoor advertising display.

SB 932 (Chapter 85) - Amends Section 65588 of the Government Code. This law extends deadlines for specified local governments to update the housing elements of their general plans.

SB 1054 (Chapter 612) - Adds and repeals Article 6.5 (commencing with Section 65053.5) of Chapter 1.5 of Division 1 of Title 7 of the Government Code. This law requires the recognition of a single local retention entity (LRE) for each military base in California. It establishes criteria and a process for designating them, and specifies responsibilities of state agencies in recognizing LREs. The provisions of this bill would sunset on January 1, 2007. This bill allows the Technology Trade and Commerce Agency to share its technical expertise with local communities in order to retain bases.

SB 1065 (Chapter 284) - Amends Section 5403 of the Business and Professions Code, and Section 730.5 of the Streets and Highways Code. This law states it is a violation of the Outdoor Advertising Act for the owner of a display, or anyone acting on the owner's behalf, to remove, cut, cut down, injure, or destroy without a permit issued by the Department, any tree, shrub, plant, or flower growing on property owned by the Department of Transportation, if that conduct is undertaken in order to enhance the display's visibility. Such activity creates grounds for the removal of the display. This law provides for penalties for damage to trees and shrubs on state highways.

SB 1098 (Chapter 730) - Amends Sections 65858 and 65913.1 of the Government Code. This law precludes local agencies from adopting interim ordinances (moratoria) that would deny approval of all multi-family housing construction projects for more than 45 days unless they make written findings, supported by substantial evidence.

SB 1191 (Chapter 745) - Amends various sections of the Government Code including Sections 15378 and 51207. Existing law requires or requests various state and local agencies to prepare and submit reports to the Governor, the Legislature, or other state entities. This law revises or deletes certain reporting requirements for state and local agencies, and deletes obsolete references.

ATTORNEY GENERAL OPINIONS SUMMARY

The following summarizes Attorney General opinions relating to planning and land use published in 2001 and 2002. The opinions are organized by subject matter.

Planning and Development

[00-1212](#) - 1) The City and County of San Francisco is statutorily required to obtain approval from the County of San Mateo of its plans to expand San Francisco International Airport into San Francisco Bay on property located within the county before the San Francisco Bay Conservation and Development Commission may act on the city's permit application for the project. 2) The San Francisco Bay Conservation and Development Commission may not waive or postpone the statutory requirement that the County of San Mateo approve the plans for the airport expansion before the commission may act on the city's permit application.

[01-306](#) - City of Pasadena Ordinance No. 6847, which authorizes that the International Building Code, the International Residential Code, the International Plumbing Code, the International Fuel and Gas Code, and the International Mechanical Code may be deemed by the city's building official as an approved alternate for materials, designs, and methods of construction, is not consistent with state law. 2) State law does not allow model building codes other than those adopted in the California Building Standards Code to be deemed by a local jurisdiction as "approved alternate" authority to the California Building Standards Code for purposes of

approving materials, designs, and methods of construction for buildings constructed in California.

01-701 - A county may require an applicant for a coastal development permit to agree to defend, indemnify, and hold harmless the county in any action brought by a third party to void the permit.

Public Finance

00-1107 – 1) “Participating revenue districts” for purposes of the alternative method of distributing tax levies are cities and districts for which county officers assess property and collect taxes or assessments and for which the alternative method of distributing tax levies has been implemented. 2) The consequences of being a public district “for which the county treasury is not the legal depository” for purposes of the alternative method of distributing tax levies are that such district’s governing board and the board of supervisors must both approve the district’s participation in order to implement the program for the district.

Governance Issues

00-815 – 1) It would not be a violation of Government Code section 1090 for the sole shareholder of a corporation that operates an ambulance service under a certificate of public convenience and necessity issued by a city to hold the office of mayor of the city. 2) It would not be a violation of Government Code section 1090 for a city council to modify the terms of an ambulance service rate schedule where the ambulance service is operated by a corporation of which the mayor of the city is the sole shareholder. 3) It would be a violation of Government Code section 1090 for a city council to modify the terms of an agreement allowing interruption of the traffic signals of the city in exchange for payment of an annual fee, where the agreement is made with a corporation of which the mayor of the city is the sole shareholder. 4) The offices of Mayor of the City of Bakersfield and Director of the 15th District Agricultural Association do not constitute incompatible public offices.

00-906 - A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board.

01-313 - A county ordinance may prohibit the transfer of funds into a county candidate’s or elective county officer’s campaign committee from any other campaign committee controlled by a candidate but only with respect to transfers from one candidate to another and only in order to avoid “funneling” where a valid contribution limit is in place.

01-408 - A county charter may grant the board of supervisors the authority to remove for cause by a four-fifths vote the sheriff, district attorney, and other county officers upon due notice and opportunity to be heard.

01-601 - Where a city proposes to enter into a development agreement with a developer, a senior staff member of the city may not participate in the negotiations and drafting of the agreement if her spouse is employed by a firm that will provide outreach services for the developer with respect to the project pursuant to a yearly retainer agreement, even though the spouse has no ownership interest in the firm, he will not work on the city's project, and his income will not be affected by the outcome of the development agreement or project.

01-1006 - A workforce investment board may continue to contract with a newly elected city council member for the performance of employment development services, which he has provided to the board for over five years prior to his election, where the board was created by a joint powers agreement between the city and two other public agencies, the agreement provides for the administration of all contracts by the city's employees, including the ministerial execution of all contracts by the city manager, and the city council does not review, consider, approve, administer, or monitor performance of any board contract.

Environmental Issues

00-1201 - When the California Air Resources Board adopts regulations to reduce volatile organic compound emissions from consumer products, the statutory prohibition against the elimination of a "product form" refers to the shape and structure of the product, such as liquid, solid, powder, gel crystal, aerosol, or pump spray, as distinguished from the material of which it is composed.

01-106 - A city may impose storm drainage pollution abatement charges with respect to property owned by school districts within the city's boundaries to fund the city's activities in meeting federal stormwater discharge requirements if the activities do not include the construction of capital improvements; a city may not impose such charges upon the California Department of Transportation since the department itself must meet the federal requirements for its own properties and activities.

2002 Supplement

THE PLANNING AND ZONING LAW

(California Government Code)

TITLE 7. PLANNING AND LAND USE

DIVISION 1. PLANNING AND ZONING

Additions and deletions to the code sections for 2001 and 2002, have been noted in the text. Additions (with the exception of section numbers and titles) are noted by **bold-faced type**, while asterisks (***) denote the deletion of punctuation, words, phrases, sentences, or paragraphs.

Chapter 1. General Provisions

65008. Discrimination prohibited

(a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) The race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, **familial status, disability**, or age of the individual*** or group of individuals. **For purposes of this section, both of the following definitions apply:**

(A) **"Familial status" as defined in Section 12955.2.**

(B) **"Disability" as defined in Section 12955.3.**

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of low, moderate, or middle income.

(b) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, **familial status, disability**, or age of the owners or intended occupants of the residential development or emergency shelter.

(c) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against a residential development or emergency shelter because the development or shelter is intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(2) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter *** **that** is subsidized, financed, insured, or otherwise assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e).

(2) No city, county, city and county, or other local governmental agency may, because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, **familial status, disability**, or age of the intended occupants, or because the development is intended for occupancy by persons and families of low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(e) Notwithstanding *****subdivisions (a) to (d), inclusive**, nothing in this section or this title shall be construed to prohibit either of the following:

(1) The County of Riverside from enacting and enforcing zoning to provide housing for older persons, in accordance with state or federal law, if that zoning was enacted prior to January 1, 1995.

(2) Any city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements *** **that** reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single-family residence or a multifamily residence, including manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices *** **that** inhibit the development of housing for persons and families of low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

(Amended by Stats. 1984, Ch. 1691. Effective October 1, 1984; Amended by Stats. 1986, Ch. 639. Effective September 2, 1986; Amended by Stats. 1992, Ch. 1298; Amended by Stats. 1994, Ch. 896; Amended by Stats. 1996, Ch. 295; Amended by Stats. 2001, Ch. 671)

Article 4. Powers and Duties of OPR

65040.2. General plan guidelines

(a) In connection with its responsibilities under subdivision (l) of Section 65040, the office shall develop and adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3 ***. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and *** **the** department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) **The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.**

(e) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

(Added by Stats. 1975, Ch. 641; Amended by Stats. 1995, Ch. 686. Effective on October 10, 1995. Amended by Stats. 2001, Ch. 762)

65040.12. Coordination of environmental justice programs

(a) The office shall be the coordinating agency in state government for environmental justice programs.

(b) The director shall do all of the following:

(1) Consult with the Secretaries of the California Environmental Protection Agency, the Resources Agency, the Trade and Commerce Agency, and the Business, Transportation and Housing Agency, **the Working Group on Environmental Justice established pursuant to Section 72002 of the Public Resources Code**, any other appropriate state agencies, and all other interested members of the public and private sectors in this state.

(2) Coordinate the office's efforts and share information regarding environmental justice programs with the Council on Environmental Quality, the United States Environmental Protection Agency, the General Accounting Office, the Office of Management and Budget, and other federal agencies.

(3) Review and evaluate any information from federal agencies that is obtained as a result of their respective regulatory activities under federal Executive Order 12898, **and from the Working Group on Environmental Justice established pursuant to Section 72002 of the Public Resources Code.**

(c) When it adopts its next edition of the general plan guidelines pursuant to Section 65040.2, but in no case later than July 1, 2003, the office shall include guidelines for addressing environmental justice matters in city and county general plans. The office shall hold at least one public hearing prior to the release of any draft guidelines, and at least one public hearing after the release of the draft guidelines. The hearings may be held at the regular meetings of the Planning Advisory and Assistance Council.

(d) The guidelines developed by the office pursuant to subdivision (c) shall recommend provisions for general plans to do all of the following:

(1) Propose methods for planning for the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community, given the fiscal and legal constraints that restrict the siting of these facilities.

(2) Propose methods for providing for the location, if any, of industrial facilities and uses that, even with the best available technology, will contain or produce material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety, in a manner that seeks to avoid over-concentrating these uses in proximity to schools or residential dwellings.

(3) Propose methods for providing for the location of new schools and residential dwellings in a manner that seeks to avoid locating these uses in proximity to industrial facilities and uses that will contain or produce material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant hazard to human health and safety.

(4) Propose methods for promoting more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, schools, and recreation.

(e) For the purposes of this section, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(Added by Stats. 1999, Ch. 690; Amended by Stats. 2000, Ch. 728.; Amended by Stats. 2000, Ch. 690. Amended by Stats. 2001, Ch.762)

Article 6. Local Base Reuse Entities

65051.5. School facilities

If the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, intends to or does acquire title to any real property that lies within the boundaries of the former Marine Corps Air Station-Tustin, then notwithstanding any other provision of law, including Chapter 4.9 (commencing with Section 65995), which the Legislature hereby finds and declares shall not relieve the City of Tustin or the Tustin Community Redevelopment Agency of their duties under Division 13 (commencing with Section 21000) of the Public Resources Code to fully mitigate all adverse environmental effects associated with the buildout of the Reuse Plan for MCAS-Tustin by designating adequate schoolsites at the former base to alleviate impacts on the Santa Ana Unified School District and the Rancho Santiago Community College District, neither the City of Tustin, nor the Tustin Community Redevelopment Agency, and none of their respective agencies and political subdivisions, may grant or issue any land use or other approvals, in the form of any general plan amendments, specific plans, zoning ordinances, redevelopment plans, development agreements, subdivision maps, or other development permits or entitlements, to allow any persons or entities to develop any commercial, residential, or other land uses on all or any portion of any real property at the Marine Corps Air Station-Tustin that the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, intends to or does acquire from any source, unless those approvals require, as conditions of approval and mitigation measures for allowing the development of those land uses, the conveyance, or the irrevocable offer to dedicate, without charge, to the

Santa Ana Unified School District and the Rancho Santiago Community College District, for purposes of constructing and operating a K-14 facility, (a) fee title to a 100-acre parcel of contiguous land situated within that portion of the Marine Corps Air Station-Tustin that falls within the existing boundaries of the Santa Ana Unified School District and the Rancho Santiago Community College District and includes all or some portions of the real property referred to as Parcels 4, 5, 6, 7, 8, and 14 as shown on Figure 2-3 of the approved Reuse Plan for the Marine Corps Air Station-Tustin, or (b) fee title to a portion of the Marine Corps Air Station-Tustin that consists of a portion of land that is approved in writing by the Santa Ana Unified School District and the Rancho Santiago Community College District and that does not include any property designated in the Marine Corps Air Station-Tustin Base Reuse Plan for any other public entity or nonprofit organization, including, without limitation, the County of Orange, the Orange County Sheriff-Coroner, and the Orange County Rescue Mission, but excluding the South Orange County Community College District. Those conditions of approval and mitigation measures shall require that the conveyance or offer to dedicate that 100-acre parcel to those districts shall be made within 12 months of the date on which the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, first acquires that property from any source. The requirements of this section shall be deemed satisfied upon the conveyance of the property, described in (a) or (b), to the Santa Ana Unified School District and the Rancho Santiago Community College District. Prior to conveyance of this property, the Santa Ana Unified School District and the Rancho Santiago Community College District shall agree upon a legal description of the property. Notwithstanding any other provision of law, for purposes of Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure, use of land for classroom facilities, including, but not limited to, educational or training programs, by the Santa Ana Unified School District or the Rancho Santiago Community College District shall be irrebuttably presumed to be a more necessary public use than any other use at Marine Corps Air Station-Tustin. This section shall apply retroactively to all land use or other approvals relating to the Marine Corps Air Station-Tustin that are granted or issued by the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, on or after January 1, 2001. Any such land use or other approvals granted or issued by any of these entities that do not comply with this section shall be invalid and of no force or effect.

(Added by Stats. 2001, Ch. 123)

Article 6.5 Single Local Retention Entities

65053.5 Single Local Base Retention Entity

(a) As used in this article, the following terms have the following meaning:

(1) "Military base" means a military installation or subinstallation in California, as defined by regulations of the Departments of Defense and the Army, Navy, Air Force, and Marines.

(2) "Affected local entity" means any county or city located wholly or partly within the boundaries of a military base or having a sphere of influence over any portion of the base with responsibility for local zoning and planning decisions.

(b) The Legislature hereby finds and declares both of the following:

(1) Because of the tremendous economic impact that military bases and Department of Defense facilities have on the state, it is in the best interest of the state to facilitate their retention.

(2) It is the intent of the Legislature to encourage cooperation between affected local entities in efforts to retain military bases in this state. It is also the intent of the Legislature to authorize affected local entities to enter into partnerships to engage in base retention activities by authorizing the creation of a joint powers authority pursuant to this section.

(c) For the purposes of this article, a single local base retention entity shall be recognized for each military base in this state.

(d) A list of entities or their successors, including, but not limited to, separate airport or port authorities recognized as the single local retention entity for the military bases, shall be maintained by the California Defense Retention and Conversion Council. Affected counties and cities may also establish, by resolution, a joint powers authority for the purposes of this article pursuant to Chapter 5 (commencing with

Section 6500) of Division 7 of Title 1, if a single local retention entity cannot otherwise be identified or established.

(e) The state shall recognize a single local retention entity for each active military base if resolutions acknowledging the entity as the single local base retention entity are adopted by the affected county boards of supervisors and the city council of each city located wholly or partly within the boundaries of the base or having a sphere of influence over any portion of the base and are forwarded to the California Defense Retention and Conversion Council, created pursuant to Article 3.6 (commencing with Section 15346) of Chapter 1 of Part 6.7 of Division 3 of Title 2 on or before July 1, 2002. If prior to January 1, 2002, a local entity was awarded grant moneys pursuant to Section 15346.10 for a specific military installation, the recipient entity shall be recognized by the state as the single local base retention entity unless resolutions acknowledging a separate entity are adopted by the affected county board of supervisors and the city council of each city located wholly or partly within the boundaries of the base or having a sphere of influence over any portion of the base and are forwarded to the California Defense Retention and Conversion Council.

(f) If the necessary resolutions are not adopted within the time limit specified in subdivision (e), the California Defense Retention and Conversion Council shall appoint a neutral person or persons, with experience in local land use issues, as a mediator to facilitate communication between the disputants and assist them in reaching a mutually acceptable agreement.

(g) If the necessary resolutions are not adopted within the time limit specified in subdivision (e), the California Defense Retention and Conversion Council, as a last resort, and only if no recognition of a single local base retention entity is made pursuant to subdivision (f), shall hold public hearings and recognize a single local base retention entity for each military base or recommend legislation or action by the local agency formation commission if necessary to implement a proposed recognition.

(Added by Stats. 2001, Ch. 612)

65053.6. The single local base retention authority shall be recognized by all state agencies as the single base retention planning authority for the base. The state shall encourage the federal government and other local jurisdictions to recognize similarly the authorities designated pursuant to Section 65053.5 for the purposes of retention activities.

(Added by Stats. 2001, Ch. 612)

65053.7. This article shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2007, deletes or extends that date.

(Added by Stats. 2001, Ch. 612)

Chapter 2.5. Transportation Planning and Programming

65080. Regional transportation plans and programs

(a) Each transportation planning agency designated under Section 29532 or 29532.1 shall prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services. The plan shall be action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials. The regional transportation plan shall consider factors specified in Section 134 of Title 23 of the United States Code. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.

(b) The regional transportation plan shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall be consistent with the funding estimates of the financial

element. The policy element of transportation planning agencies with populations that exceed 200,000 persons may quantify a set of indicators including, but not limited to, all of the following:

(A) Measures of mobility and traffic congestion, including, but not limited to, vehicle hours of delay per capita and vehicle miles traveled per capita.

(B) Measures of road and bridge maintenance and rehabilitation needs, including, but not limited to, roadway pavement and bridge conditions.

(C) Measures of means of travel, including, but not limited to, percentage share of all trips (work and nonwork) made by all of the following:

(i) Single occupant vehicle.

(ii) Multiple occupant vehicle or carpool.

(iii) Public transit including commuter rail and intercity rail.

(iv) Walking.

(v) Bicycling.

(D) Measures of safety and security, including, but not limited to, total injuries and fatalities assigned to each of the modes set forth in subparagraph (C).

(E) Measures of equity and accessibility, including, but not limited to, percentage of the population served by frequent and reliable public transit, with a breakdown by income bracket, and percentage of all jobs accessible by frequent and reliable public transit service, with a breakdown by income bracket.

(F) The requirements of this section may be met utilizing existing sources of information. No additional traffic counts, household surveys, or other sources of data shall be required.

(G) For the region defined in Section 66502, the indicators specified in this paragraph shall be supplanted by the performance measurement criteria established pursuant to subdivision (e) of Section 66535, if that subdivision is added to the Government Code by Section 1 of Senate Bill 1995 of the 1999-2000 Regular Session.

(2) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all projects proposed for development during the 20-year life of the plan.

The action element shall consider congestion management programming activities carried out within the region.

(3) (A) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain recommendations for allocation of funds. A county transportation commission created pursuant to Section 130000 of the Public Utilities Code shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(B) The financial element of transportation planning agencies with populations that exceed 200,000 persons may include a project cost breakdown for all projects proposed for development during the 20-year life of the plan that includes total expenditures and related percentages of total expenditures for all of the following:

(i) State highway expansion.

(ii) State highway rehabilitation, maintenance, and operations.

(iii) Local road and street expansion.

(iv) Local road and street rehabilitation, maintenance, and operation.

(v) Mass transit, commuter rail, and intercity rail expansion.

(vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.

(vii) Pedestrian and bicycle facilities.

(viii) Environmental enhancements and mitigation.

(ix) Research and planning.

(x) Other categories.

(c) Each transportation planning agency may also include other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility for specific sectors of the community, including, but not limited to, senior citizens.

(d) ***Each transportation planning agency shall adopt and submit, every three years***, an updated regional transportation plan to the California Transportation Commission and the Department of Transportation. The plan shall be consistent with federal planning and programming requirements. A transportation planning agency that does not contain an urbanized area may at its option adopt and submit a regional transportation plan once every four

years beginning by September 1, 2001. Prior to adoption of the regional transportation plan, a public hearing shall be held, after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061.

(Amended by Stats. 1977, Ch. 1106, Operative February 1, 1978; Amended by Stats. 1982, Ch. 681; Amended by Stats. 1987, Ch. 878; Amended by Stats. 1989, Ch. 106. Effective July 10, 1989; Amended by Stats. 1992, Ch. 1177. Effective September 30, 1992; Repealed and added by Stats. 1997, Ch. 622; Amended by Stats. 1999, Ch. 1007., Amended by Stats. 2000, Ch. 832; Amended by Stats. 2001, Ch. 99)

65083. Exclusive mass transit guideway projects

(Added by Stats. 1990, Ch. 1304; Amended by Stats. 1997, Ch. 622.; Amended by Stats. 2000, Ch. 91; Repealed by Stats. 2001, Ch. 115)

Chapter 2.6. Congestion Management

65089. Congestion management program

(a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The highway and roadway system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system. Level of service (LOS) shall be measured by Circular 212, by the most recent version of the Highway Capacity Manual, or by a uniform methodology adopted by the agency that is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department instead shall make this determination if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A. When the level of service on a segment or at an intersection fails to attain the established level of service standard, a deficiency plan shall be adopted pursuant to Section 65089.4.

(2) A performance element that includes performance measures to evaluate current and future multimodal system performance for the movement of people and goods. At a minimum, these performance measures shall incorporate highway and roadway system performance, and measures established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators. These performance measures shall support mobility, air quality, land use, and economic objectives, and shall be used in the development of the capital improvement program required pursuant to paragraph (5), deficiency plans required pursuant to Section 65089.4, and the land use analysis program required pursuant to paragraph (4).

(3) A travel demand element that promotes alternative transportation methods, including, but not limited to, carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking management programs. The agency shall consider parking cash-out programs during the development and update of the travel demand element.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. This program

shall measure, to the extent possible, the impact to the transportation system using the performance measures described in paragraph (2). In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. The program defined under this section may require implementation through the requirements and analysis of the California Environmental Quality Act, in order to avoid duplication.

(5) A seven-year capital improvement program, developed using the performance measures described in paragraph (2) to determine effective projects that maintain or improve the performance of the multimodal system for the movement of people and goods, to mitigate regional transportation impacts identified pursuant to paragraph (4). The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to that which existed prior to the improvement or ***alteration. The capital improvement program may also include safety, maintenance, and rehabilitation projects that do not enhance the capacity of the system but are necessary to preserve the investment in existing facilities.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program that is included in a congestion management program pursuant to subdivision (b), or in a deficiency plan pursuant to Section 65089.4, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

(e) Pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991 and regulations adopted pursuant to the act, the department shall submit a request to the Federal Highway Administration Division Administrator to accept the congestion management program in lieu of development of a new congestion management system otherwise required by the act.

(Added by Stats. 1989, Ch. 106, Effective July 10, 1989; Amended by Stats. 1990, Ch. 16; Amended by Stats. 1992, Ch. 1243, Effective August 27, 1992; Amended by Stats. 1994, Ch. 114; Amended by Stats. 1995, Ch. 91; Amended by Stats. 1996, Ch. 29; Amended by Stats. 2001, Ch. 597)

Chapter 3. Local Planning

Article 5. Authority for and Scope of General Plans

65302.6. Frontier county

(Added by Stats. 1996, Ch. 438; Repealed by Stats. 2001, Ch. 745)

Article 6. Preparation, Adoption, and Amendment of the General Plan

65352.2 Coordination with school districts

(a) It is the intent of the Legislature in enacting this section to foster improved communication and coordination between cities, counties, and school districts related to planning for school siting.

(b) Following notification by a local planning agency pursuant to paragraph (2) of subdivision (a) of Section 65352, the governing board of any elementary, high school, or unified school district, in addition to any comments submitted, may request a meeting with the planning agency to discuss possible methods of coordinating planning, design, and construction of new school facilities and school sites in coordination with the existing or planned infrastructure, general plan, and zoning designations of the city and county in accordance with subdivision (d). If a meeting is requested, the planning agency shall meet with the school district within 15 days following notification.

(c) At least 45 days prior to completion of a school facility needs analysis pursuant to Section 65995.6 of the Education Code, a master plan pursuant to Sections 16011 and 16322 of the Education Code, or other long range plan, that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, the governing board of any school district shall notify and provide copies of any relevant and available information, master plan, or other long range plan, including, if available, any proposed school facility needs analysis, that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, to the planning commission or agency of the city or county with land use jurisdiction within the school district. Following notification, or at any other time, the affected city or county may request a meeting in accordance with subdivision (d). If a meeting is requested, the school district shall meet with the city or county within 15 days following notification. After providing the information specified in this section within the 45-day time period specified in this subdivision, the governing board of the affected school district may complete the affected school facility needs analysis, master plan, or other long-range plan without further delay.

(d) At any meeting requested pursuant to subdivision (b) or (c) the parties may review and consider, but are not limited to, the following issues:

(1) Methods of coordinating planning, design, and construction of new school facilities and school sites in coordination with the existing or planned infrastructure, general plan, and zoning designations of the city and county.

(2) Options for the siting of new schools and whether or not the local city or counties existing land use element appropriately reflects the demand for public school facilities, and ensures that new planned development reserves location for public schools in the most appropriate locations.

(3) Methods of maximizing the safety of persons traveling to and from school sites.

(4) Opportunities to coordinate the potential siting of new schools in coordination with existing or proposed community revitalization efforts by the city or county.

(5) Opportunities for financial assistance which the local government may make available to assist the school district with site acquisition, planning, or preparation costs.

(6) Review all possible methods of coordinating planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities and programs in the community.

(Added by Stats. 2001, Ch. 396)

Article 8.5. Transit Village Development Planning Act of 1994

65460.2. Characteristics of transit village

A city or county may prepare a transit village plan for a transit village development district that addresses the following characteristics:

(a) A neighborhood centered around a transit station that is planned and designed so that residents, workers, shoppers, and others find it convenient and attractive to patronize transit.

(b) A mix of housing types, including apartments, within not more than a quarter mile of the exterior boundary of the parcel on which the transit station is located.

(c) Other land uses, including a retail district oriented to the transit station and civic uses, including day care centers and libraries.

(d) Pedestrian and bicycle access to the transit station, with attractively designed and landscaped pathways.

(e) A rail transit system that should encourage and facilitate intermodal service, and access by modes other than single occupant vehicles.

(f) Demonstrable public benefits beyond the increase in transit usage, including all of the following:

(1) Relief of traffic congestion.

(2) Improved air quality.

(3) Increased transit revenue yields.

(4) Increased stock of affordable housing.

(5) Redevelopment of depressed and marginal inner-city neighborhoods.

(6) Live-travel options for transit-needy groups.

(7) Promotion of infill development and preservation of natural resources.

(8) Promotion of a safe, attractive, pedestrian-friendly environment around transit stations.

(9) Reduction of the need for additional travel by providing for the sale of goods and services at transit stations.

(10) Promotion of job opportunities.

(11) Improved cost-effectiveness through the use of the existing infrastructure.

(12) Increased sales and property tax revenue.

(13) Reduction in energy consumption.

(g) Sites where a density bonus of at least 25 percent may be granted pursuant to specified performance standards.

(h) Other provisions that may be necessary, based on the report prepared pursuant to subdivision (b) of former Section 14045, **as enacted by Section 3 of Chapter 1304 of the Statutes of 1990.**

(Added by Stats. 1994, Ch. 780; Amended by Stats. 1997, Ch. 580; Amended by Stats. 2001, Ch. 115)

Article 10.6. Housing Elements

65583. Housing element content

The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels **and for persons with disabilities as identified in the analysis pursuant to paragraph (4) of subdivision (a)**, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 **and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).**

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the ***elderly, **persons with disabilities**, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project by project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a *****low- and moderate-income housing fund** of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) (A) Identify adequate sites which will be made available through appropriate zoning and development standards and with services and facilities, including sewage collection and treatment, domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b).

(i) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by

right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low-income households.

(ii) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial or industrial uses and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(C) The requirements of this subdivision regarding identification of sites for farmworker housing shall apply commencing with the next revision of housing elements required by Section 65588 following the enactment of this subparagraph.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, **including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.**

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, *****color, familial status, or disability.**

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

(Amended by Stats. 1984, Ch. 1691. Effective October 1, 1984; Amended by Stats. 1986, Ch. 1383; Amended by Stats. 1989, Ch. 1451; Amended by Stats. 1991, Ch. 889. See notes immediately following and note following Section 65589.7; Amended by Stats. 1999, Ch. 967; Amended by Stats. 2001, Ch. 671)

65584. Regional housing needs

(a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs

of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties that already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographical restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grants a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the

current total housing need is maintained. If the council of governments or the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount that will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and **above moderate-income** housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a).

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots **that** may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged **to** interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to 7 days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(Amended by Stats. 1984, Ch. 1684; Amended by Stats. 1989, Ch. 1451; Amended by Stats. 1990, Ch. 1441; Amended by Stats. 1998, Ch. 796; Amended by Stats. 2001, Ch. 159)

65585.1 SANDAG self certification

(a) The San Diego Association of Governments (SANDAG), if it approves a resolution agreeing to participate in the self-certification process, and in consultation with the cities and county within its jurisdiction, its housing element advisory committee, and the department, shall work with a qualified consultant to determine the maximum number of housing units that can be constructed, acquired, rehabilitated, and preserved as defined in paragraph (11) of subdivision (e) of Section 33334.2 of the Health and Safety Code, and the maximum number of units or households that can be provided with rental or ownership assistance, by each jurisdiction during the third and fourth housing element cycles to meet the existing and future housing needs for low- and very low income households as defined in Sections 50079.5, 50093, and 50105 of the Health and Safety Code, and extremely low income households. The methodology for determining the maximum number of housing units that can be provided shall include a recognition of financial resources and regulatory measures that local jurisdictions can use to provide additional affordable lower income housing. This process is intended to identify the available resources that can be used to determine the maximum number of housing units each jurisdiction can provide. The process acknowledges that the need to produce housing for low-, very low, and extremely low income households may exceed available resources. The department and SANDAG, with input from its housing element advisory committee, the consultant,

and local jurisdictions, shall agree upon definitions for extremely low income households and their affordable housing costs, the methodology for the determination of the maximum number of housing units and the number each jurisdiction can produce at least one year before the due date of each housing element revision, pursuant to paragraph ~~***~~(4) of subdivision (e) of Section 65588. If SANDAG fails to approve a resolution agreeing to participate in this pilot program, or SANDAG and the department fail to agree upon the methodology by which the maximum number of housing units is determined, then local jurisdictions may not self-certify pursuant to this section.

(1) The "housing element advisory committee" should include representatives of the local jurisdictions, nonprofit affordable housing development corporations and affordable housing advocates, and representatives of the for-profit building, real estate and banking industries.

(2) The determination of the "maximum number of housing units" that the jurisdiction can provide assumes that the needs for low-, very low, and extremely low income households, including those with special housing needs, will be met in approximate proportion to their representation in the region's population.

(3) A "qualified consultant" for the purposes of this section means an expert in the identification of financial resources and regulatory measures for the provision of affordable housing for lower income households.

(b) A city or county within the jurisdiction of the San Diego Association of Governments that elects not to self-certify, or is ineligible to do so, shall submit its housing element or amendment to the department, pursuant to Section 65585.

(c) A city or county within the jurisdiction of the San Diego Association of Governments that elects to self-certify shall submit a self-certification of compliance to the department with its adopted housing element or amendment. In order to be eligible to self-certify, the legislative body, after holding a public hearing, shall make findings, based on substantial evidence, that it has met the following criteria for self-certification:

(1) The jurisdiction's adopted housing element or amendment substantially complies with the provisions of this article, including addressing the needs of all income levels.

(2) For the third housing element revision, pursuant to Section 65588, the jurisdiction met its fair share of the regional housing needs for the second housing element revision cycle, as determined by the San Diego Association of Governments.

In determining whether a jurisdiction has met its fair share, the jurisdiction may count each additional lower income household provided with affordable housing costs. Affordable housing costs are defined in Section 6918 for renters, and in Section 6925 for purchasers, of Title 25 of the California Code of Regulations, and in Sections 50052.5 and 50053 of the Health and Safety Code, or by the applicable funding source or program.

(3) For subsequent housing element revisions, pursuant to Section 65588, the jurisdiction has provided the maximum number of housing units as determined pursuant to subdivision (a), within the previous planning period. The additional units provided at affordable housing costs as defined in paragraph (2) in satisfaction of a jurisdiction's maximum number of housing units shall be provided by one or more of the following means:

(i) New construction.

(ii) Acquisition.

(iii) Rehabilitation.

(iv) Rental or ownership assistance.

(v) Preservation of the availability to lower income households of affordable housing units in developments which are assisted, subsidized, or restricted by a public entity and which are threatened with imminent conversion to market rate housing.

(B) The additional affordable units shall be provided in approximate proportion to the needs defined in paragraph (2) of subdivision (a).

(4) The city or county provides a statement regarding how its adopted housing element or amendment addresses the dispersion of lower income housing within its jurisdiction, documenting that additional affordable housing opportunities will not be developed only in areas where concentrations of lower income households already exist, taking into account the availability of necessary public facilities and infrastructure.

(5) No local government actions or policies prevent the development of the identified sites pursuant to Section 65583, or accommodation of the jurisdiction's share of the total regional housing need, pursuant to Section 65584.

(d) When a city or county within the jurisdiction of the San Diego Association of Governments duly adopts a self-certification of compliance with its adopted housing element or amendment pursuant to subdivision (c), all of the following shall apply:

(1) Section 65585 shall not apply to the city or county.

(2) In any challenge of a local jurisdiction's self-certification, the court's review shall be limited to determining whether the self-certification is accurate and complete as to the criteria for self-certification. Where there has not been a successful challenge of the self-certification, there shall be a rebuttable presumption of the validity of the housing element or amendment.

(3) Within six months after the completion of the revision of all housing elements in the region, the council of governments, with input from the cities and county within its jurisdiction, the housing element advisory committee, and qualified consultant shall report to the Legislature on the use and results of the self-certification process by local governments within its jurisdiction. This report shall contain data for the last planning period regarding the total number of additional affordable housing units provided by income category, the total number of additional newly constructed housing units, and any other information deemed useful by SANDAG in the evaluation of the pilot program.

(e) This section shall become inoperative on June 30, 2009, and as of January 1, 2010, is repealed, unless a later enacted statute *** **that** is enacted before January 1, 2010, deletes or extends *** **the dates on which it becomes inoperative and is repealed.**

(Added by Stats. 1995, Ch. 589; Amended by Stats. 2001, Ch. 159)

65588. Periodic review and revision

(a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, the dates of revisions for the housing element shall be modified as follows:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2000, for the third revision, and June 30, 2005, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2001, for the third revision, and June 30, 2006, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments ***: June 30, 2002, for the third revision, and June 30, 2007, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2007, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 1999, for the third revision cycle ending June 30, 1999, and June 30, 2004, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2008, for the fourth revision.

(7) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

(Amended by Stats. 1984, Ch. 208. Effective June 20, 1984; Amended by Stats. 1993, Ch. 695; Amended by Stats. 1996, Ch. 39; Amended by Stats. 1997, Ch. 580; Amended by Stats. 1998, Ch. 819; Amended by Stats. 1999, Ch. 107; Amended by Stats. 2000, Ch. 117; Amended by Stats. 2001, Ch. 85)

65589.5 Legislative findings

(a) The Legislature finds all of the following:

(1) The lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments *** **that** limit the approval of housing, increase the cost of land for *** housing, and require that high fees and exactions be paid by producers of *** housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions *** **that** result in disapproval of *** housing projects, reduction in density of *** housing projects, and excessive standards for *** housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible *** housing developments *** **that** contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without *** **complying with** subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands *** **for** urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project *** **for** very low, low- or moderate-income households or condition approval in a manner *** **that** renders the project infeasible for development for the use of very low, low- or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588 and that is in substantial compliance with this article, and the development project is not needed for the jurisdiction to meet its share of the regional housing need *** **for** very low, low-, or moderate-income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation **that** is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or *** **wastewater** facilities to serve the project.

(6) The development project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with written development standards, conditions, and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element pursuant to subdivision (b) of Section 65583. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) *** "**Housing for** very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(3) "Area median income" *** **means** area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(4) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or the percentage of a lot *** **that** may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, *** **that** have a substantial adverse effect on the viability or affordability of a housing development *** **for** very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the

local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of housing for very low, low-, or moderate-income households without *** making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out **and shall award reasonable attorney fees and costs of suit to the plaintiff or petitioner who proposed the housing development, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section.** If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled.

(l) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure, all or part of the record may be filed (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(Added by Stats. 1982, Ch. 1438; Amended by Stats. 1990, Ch. 1439; Amended by Stats. 1991, Ch. 100. Effective June 30, 1991; Amended by Stats. 1992, Ch. 1356; Amended by Stats. 1994, Ch. 896; Amended by Stats. 1999, Ch. 966; Amended by Stats. 1999, Ch. 968; Amended by Stats. 2001, Ch. 237)

Chapter 4. Zoning Regulations

Article 2. Adoption of Regulations

65850.5 Protection for solar energy systems

(a) The legislative body of any city or county shall not enact an ordinance *** **that** has the effect of prohibiting or of unreasonably restricting the use of solar energy systems other than for the preservation or protection of the public health or safety. This prohibition shall be applicable to charter cities because the promotion of the use of nonfossil fuel sources of energy, *** **including** solar energy and energy conservation measures, is a matter of statewide concern.

(b) This section shall not apply to ordinances that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions *** **that** do not significantly increase the cost of the system or significantly decrease its efficiency, or *** **that** allow for an

alternative system of comparable cost and efficiency. (c) For the purposes of this section, "solar energy system" shall have the same meaning as set forth in Section 801.5 of the Civil Code.

(Added by Stats. 1978, Ch. 1154; Amended by Stats. 2001, Ch. 873)

65858. Urgency measure: interim zoning ordinance

(a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses *** **that** may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. **In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:**

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.

(2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).

(3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

(g) For purposes of this section, "development of multifamily housing projects" does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.

(h) For purposes of this section, "projects with a significant component of multifamily housing" means projects in which multifamily housing consists of at least one-third of the total square footage of the project.

(Amended by Stats. 1982, Ch. 1108; Amended by Stats. 1984, Ch. 1009; Amended by Stats. 1988, Ch. 1408; Amended by Stats. 1992, Ch. 231; Amended by Stats. 1997, Ch. 129; Amended by Stats. 2001, Ch. 939)

65863.13 Subsidized housing prepayment and notice

(a) An owner shall not be required to provide a notice prior to prepayment as required by Section 65863.10 if, upon prepayment, all of the following conditions are contained in a regulatory agreement that has been recorded against the property:

(1) No tenant who resides in the development on the effective date of prepayment shall be involuntarily displaced on a permanent basis as a result of the prepayment, unless the tenant has breached the terms of the lease.

(2) The owner shall accept and fully utilize all renewals of project-based assistance under Section 8 of the United States Housing Act of 1937, if available, and if that assistance is at a level to maintain the project's fiscal viability. The property shall be deemed fiscally viable if the rents permitted under the terms of the assistance are not less than the regulated rent levels established pursuant to subparagraph (A) of paragraph (6).

(3) The owner shall accept all enhanced Section 8 vouchers, if the tenants receive them, and all other Section 8 vouchers for future vacancies.

(4) The owner shall not terminate a tenancy at the end of a lease term without demonstrating a breach of the lease.

(5) The owner may, in selecting eligible applicants for admission, utilize criteria that permit consideration of the amount of income, as long as the owner adequately considers other factors relevant to an applicant's ability to pay rent.

(6) (A) For units that have project-based Section 8 assistance upon the effective date of prepayment and subsequently become unassisted by any form of Section 8 assistance, rents shall not exceed 30 percent of 60 percent of the area median income. If any form of Section 8 assistance is or becomes available, rent and occupancy levels shall be set in accordance with federal regulations for the Section 8 program.

(B) For unassisted units and units that do not have project-based Section 8 assistance upon the effective date of prepayment and subsequently remain unassisted or become unassisted by any form of Section 8 assistance, rents shall not exceed the greater of (i) 30 percent of 50 percent of the area median income, or (ii) for projects insured under Section 241(f) of the National Housing Act, the regulated rents, expressed as a percentage of area median income. If any form of Section 8 assistance is or becomes available, rent and occupancy levels will be set in accordance with federal regulations governing the Section 8 program.

(b) As used in this section, "regulatory agreement" means an agreement with a governmental agency for the purposes of any governmental program, which agreement applies to the development that would be subject to the notice requirement in Section 65863.10.

(c) Section 65863.11 shall not apply to any development for which the owner is exempt from the notice requirements of Section 65863.10 pursuant to this section.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

(Added by Stats. 2001, Ch. 117)

Article 2.5. Development Agreements

65867.5. Findings of consistency

(a) A development agreement is a legislative act that shall be approved by ordinance and is subject to referendum.

(b) A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

(c) A development agreement that includes a subdivision, as defined in Section 66473.7, shall not be approved unless the agreement provides that any tentative map prepared for the subdivision will comply with the provisions of Section 66473.7.

(Added by Stats. 1979, Ch. 934; Amended by Stats. 2001, Ch. 642)

65892.13. Small wind energy systems

(a) The Legislature finds and declares all of the following:

(1) California has a shortage of reliable electricity supply, which has led the Governor to proclaim a state of emergency and to issue numerous executive orders to lessen, and mitigate the effects of, the shortage. The executive orders, among other things, expedite and shorten the processing of applications for existing and new powerplants, establish an emergency siting process for peaking and renewable powerplants, and relax existing air pollutant emission requirements in order to allow power generation facilities to continue generating much needed electricity.

(2) Wind energy is an abundant, renewable, and nonpolluting energy resource. When converted to electricity, it reduces our dependence on nonrenewable energy resources and reduces air and water pollution that result from conventional sources. Distributed small wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands, increase in-state electricity generation, diversify the state's energy supply portfolio, and make the electricity supply market more competitive by promoting consumer choice.

(3) In 2000, the Legislature and Governor recognized the need to promote all feasible adoption of clean, renewable, and distributed energy sources by enacting the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code). As set forth in Section 399.6 of the Public Utilities Code, the stated objectives of the act include to "increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents."

(4) Small wind energy systems, designed for onsite home, farm, and small commercial use, are recognized by the Legislature and the State Energy Resources Conservation and Development Commission as an excellent technology to help achieve the goals of increased in-state electricity generation, reduced demand on the state electric grid, increased consumer energy independence, and nonpolluting electricity generation. In June 2001, the commission adopted a Renewable Investment Plan that includes one hundred one million two hundred fifty thousand dollars (\$101,250,000) over the next five years, in the form of a 50 percent buydown incentive for the purchasers of "emerging renewable technologies," including small wind energy systems.

(5) In light of the state's electricity supply shortage and its existing program to encourage the adoption of small wind energy systems, it is the intent of the Legislature that any ordinances regulating small wind energy systems adopted by local agencies have the effect of providing for the installation and use of small wind energy systems and that provisions in these ordinances relating to matters including, but not limited to, parcel size, tower height, noise, notice, and setback requirements do not unreasonably restrict the ability of homeowners, farms, and small businesses to install small wind energy systems in zones in which they are authorized by local ordinance. It is the policy of the state to promote and encourage the use of small wind energy systems and to limit obstacles to their use.

(b) The implementation of consistent statewide standards to achieve the timely and cost-effective installation of small wind energy systems is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead a matter of statewide concern. It is the intent of the Legislature that this section apply to all local agencies, including, but not limited to, charter cities, charter counties, and charter cities and counties.

(c) The following definitions govern this section:

(1) "Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity that does not exceed the allowable rated capacity under the Emerging Renewables Fund of the Renewables Investment Plan administered by the California Energy Commission and which will be used primarily to reduce onsite consumption of utility power.

(2) "Tower height" means the height above grade of the fixed portion of the tower, excluding the wind turbine.

(d) Any local agency may, by ordinance, provide for the installation of small wind energy systems in the jurisdiction outside an "urbanized area," as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code pursuant to this section. The local agency may establish a process for the issuance of a conditional use permit for small wind energy systems.

(1) The ordinance may impose conditions on the installation of small wind energy systems that include, but are not limited to, notice, tower height, setback, view protection, aesthetics, aviation, and design safety requirements. However, the ordinance shall not require conditions on notice, tower height, setbacks, noise level, turbine approval, tower drawings, and engineering analysis, or line drawings that are more restrictive than the following:

(A) Notice of an application for installation of a small wind energy system shall be provided to property owners within 300 feet of the property on which the system is to be located.

(B) Tower heights of not more than 65 feet shall be allowed on parcels between one and five acres and tower heights of not more than 80 feet shall be allowed on parcels of five acres or more, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

(C) Setbacks for the system tower shall be no farther from the property line than the height of the system, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(D) Decibel levels for the system shall not exceed the lesser of 60 decibels (dBA), or any existing maximum noise levels applied pursuant to the noise element of a general plan for the applicable zoning classification in a jurisdiction, as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe wind storms.

(E) The system's turbine must have been approved by the California Energy Commission as qualifying under the Emerging Renewables Fund of the commission's Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.

(F) The application shall include standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a professional mechanical, structural, or civil engineer licensed by this state. However, a wet stamp shall not be required, provided that the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D), the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.

(G) The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

(H) The application shall include a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

(2) The ordinance may require the applicant to provide information demonstrating that the system will be used primarily to reduce onsite consumption of electricity. The ordinance may also require the application to include evidence, unless the applicant does not plan to connect the system to the electricity grid, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

(3) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) The California Coastal Commission, pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, Title 7.4 (commencing with Section 66800) of the Government Code.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code.

(E) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(K) The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.

(L) The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

(4) In the event a small wind energy system is proposed to be sited in an agricultural area that may have aircraft operating at low altitudes, the local agency shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code.

(5) Notwithstanding the requirements of paragraph (1), a local agency may, if it deems it necessary due to circumstances specific to the proposed installation, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the installation is proposed.

(6) Nothing in this section shall be construed to alter or affect existing law regarding the authority of local agencies to review an application.

(e) Notwithstanding subdivision (f), any local agency that has not adopted an ordinance in accordance with subdivision (d) by July 1, 2002, may adopt such ordinance at a later date, but any applications that are submitted between July 1, 2002, and the adopted date of the ordinance must be approved pursuant to subdivision (f).

(f) Any local agency which has not adopted an ordinance pursuant to subdivision (d) on or before July 1, 2002, shall approve applications for a small wind energy systems by right if all of the following conditions are met:

(1) The size of the parcel where the system is located is at least one acre and is outside an "urbanized area," as defined in paragraph (2) of subdivision (b) of Section 21080.7 of the Public Resources Code.

(2) The tower height on parcels that are less than five acres does not exceed 80 feet.

(3) No part of the system, including guy wire anchors, extends closer than 30 feet to the property boundary, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(4) The system does not exceed 60 decibels (dBA), as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe wind storms.

(5) The system's turbine has been approved by the State Energy Resources Conservation and Development Commission as qualifying under the Emerging Renewables Fund of the commission's Renewables Investment Plan or certified by a national program recognized and approved by the Energy Commission.

(6) The application includes standard drawings and an engineering analysis of the tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a licensed professional engineer. A wet stamp is not required if the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D), the

requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a local agency.

(7) The system complies with all applicable Federal Aviation Administration requirements, including any necessary approvals for installations close to airports, and the requirements of the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

(8) The application includes a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

(9) Unless the applicant does not plan to connect the system to the electricity grid, the application includes evidence, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

(10) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) The California Coastal Commission, pursuant to the California Coastal Act, Division 20 (commencing with Section 30000) of the Public Resources Code.

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact, Title 7.4 (commencing with Section 66800) of the Government Code.

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code.

(E) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.

(F) The Alquist-Priolo Earthquake Fault Zoning Act, Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

(G) A local agency to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space easement entered into pursuant to the Open-space Easement Act of 1974, Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5 of the Government Code.

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act, Division 10.2 (commencing with Section 10200) of the Public Resources Code.

(K) The terms of a contract entered into pursuant to the Williamson Act, Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code.

(L) On a site listed in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

(11) In the event that a proposed site for a small wind energy system is in an agricultural area that may have aircraft operating at low altitudes, the local agency shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agriculture Code.

(12) No other local ordinance, policy, or regulation shall be the basis for a local agency to deny the siting and operation of a small wind energy system under this subdivision.

(13) No changes in the general plan shall be required to implement this subdivision. Any local agency, when amending its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the approval of small wind energy systems, must do so in a manner consistent with the requirements of this subdivision and the Permit Streamlining Act (commencing with Section 65920).

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the siting and operation of small wind energy systems.

(h) A local agency shall review an application for a small wind energy system as expeditiously as possible pursuant to the timelines established in the Permit Streamlining Act (commencing with Section 65920).

(i) Fees charged by a local agency to review an application for a small wind energy system shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(j) Any requirement of notice to property owners imposed pursuant to subdivision (d) shall ensure that responses to the notice are filed in a timely manner.

(k) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends that date.

(Added by Stats. 2001, Ch. 562)

Chapter 4.2. Housing Development Approvals

65913.1. Local residential zoning of vacant land

(a) In exercising its authority to zone for land uses and in revising its housing element pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3, a city, county, or city and county shall designate and zone sufficient vacant land for residential use with appropriate standards, in relation to zoning for nonresidential use, and in relation to growth projections of the general plan to meet housing needs for all income categories as identified in the housing element of the general plan. For the purposes of this section:

(1) "Appropriate standards" * means densities and requirements with respect to minimum floor areas, building setbacks, rear and side yards, parking, the percentage of a lot *** that may be occupied by a structure, amenities, and other requirements imposed on residential lots pursuant to the zoning authority which contribute significantly to the economic feasibility of producing housing at the lowest possible cost given economic and environmental factors, the public health and safety, and the need to facilitate the development of housing *** affordable to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and to persons and families of lower income, as defined in Section 50079.5 of the Health and Safety Code. However, nothing in this section shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to construct this housing.**

(2) "Vacant land" does not include agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5.

(b) Nothing in this section shall be construed to require a city, county, or city and county in which less than 5 percent of the total land area is undeveloped to zone a site within an urbanized area of that city, county, or city and county for residential uses at densities * that exceed those on adjoining residential parcels by 100 percent. For the purposes of this section, "urbanized area" means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the Federal Register, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202-15203, and as periodically updated.**

(Added by Stats. 1980, Ch. 1152; Amended by Stats. 2001, Ch. 939)

65913.5. Density bonus

(Added by Stats. 1990, Ch. 130; Repealed by Stats. 2001, Ch. 115)

Chapter 4.3. Density Bonuses and Other Incentives

65917. Policy

In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section *** 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

(Amended by Stats. 1982, Ch. 1263. Effective September 22, 1982; Amended by Stats. 1989, Ch. 842; Amended by Stats. 2001, Ch. 115)

Chapter 4.9. Payment of Fees, Charges, Dedications, or Other Requirements Against a Development Project

65995.7. State funds for new school facility construction

(a) **(1)** If state funds for new school facility construction are not available, the governing board of a school district that complies with Section 65995.5 may increase the alternative fee, charge, dedication, or other requirement calculated pursuant to subdivision (c) of Section 65995.5 by an amount that may not exceed the amount calculated pursuant to subdivision (c) of Section 65995.5, except that for the purposes of calculating this additional amount, the amount identified in paragraph (2) of subdivision (c) of Section 65995.5 may not be subtracted from the amount determined pursuant to paragraph (1) of subdivision (c) of Section 65995.5. For purposes of this section, state funds are not available if the State Allocation Board is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction. Upon making a determination that state funds are no longer available, the State Allocation Board shall notify the Secretary of the Senate and the Chief Clerk of the Assembly, in writing, of that determination and the date when state funds are no longer available for publication in the respective journal of each house. **For the purposes of making this determination, the board shall not consider whether funds are available for, or whether it is making preliminary apportionments or final apportionments pursuant to, Article 11 (commencing with Section 17078.10).**

(2) Paragraph (1) shall become inoperative commencing on the effective date of the measure that amended this section to add this paragraph, and shall remain inoperative through the earlier of either of the following:

(A) November 5, 2002, if the voters reject the Kindergarten University Public Education Facilities Bond Act of 2002, after which date paragraph (1) shall again become operative.

(B) The date of the 2004 direct primary election after which date paragraph (1) shall again become operative.

(b) A governing board may offer a reimbursement election to the person subject to the fee, charge, dedication, or other requirement that provides the person with the right to monetary reimbursement of the supplemental amount authorized by this section, to the extent that the district receives funds from state sources for construction of the facilities for which that amount was required, less any amount expended by the district for interim housing. At the option of the person subject to the fee, charge, dedication, or other requirement the reimbursement election may be made on a tract or lot basis. Reimbursement of available funds shall be made within 30 days as they are received by the district.

(c) A governing board may offer the person subject to the fee, charge, dedication, or other requirement an opportunity to negotiate an alternative reimbursement agreement if the terms of the agreement are mutually agreed upon.

(d) A governing board may provide that the rights granted by the reimbursement election or the alternative reimbursement agreement are assignable.

(Added by Stats. 1998, Ch. 407; Amended by Stats. 2001, Ch. 33)

SUBDIVISION MAP ACT

66412. Inapplicability

This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between *** **four or fewer existing adjoining parcels**, where the land taken from one parcel is added to an *** **adjoining** parcel, and where a greater number of parcels than originally existed is not thereby created, *** **if** the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to **the local *** general plan, any applicable coastal plan, and zoning and building ordinances**. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to **the local *** general plan, any applicable coastal plan, and zoning and building ordinances**, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section *** **1351 of the Civil Code**, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(4) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is "individually owned" if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(5) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a *** **windpowered** electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.

(Amended by Stats. 1984, Ch. 306; Amended by Stats. 1985, Ch. 1504; Amended by Stats. 1990, Ch. 1001; Amended by Stats. 1992, Ch. 1003.; Amended by Stats. 2000, Ch.26; Amended by Stats. 2001, Ch. 873.)

66426.5. Exceptions for conveyance to public agencies

Any conveyance of land to a governmental agency, public entity, public utility or subsidiary of a public utility for conveyance to that public utility for rights-of-way shall not be considered a division of land for purposes of computing the number of parcels. For purposes of this section, any conveyance of land to a governmental agency shall include a fee interest, **a leasehold interest**, an easement, or a license.

(Added by Stats. 1982, Ch. 87. Effective March 1, 1982; Amended by Stats. 1994, Ch. 458; Amended by Stats. 2001, Ch. 176)

66428. Tentative map required

(a) Local ordinances may require a tentative map where a parcel map is required by this chapter. A parcel map shall be required for subdivisions as to which a final or parcel map is not otherwise required by this chapter, unless the preparation of the parcel map is waived by local ordinance as provided in this section. A parcel map shall not be required for either of the following:

(1) Subdivisions of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code, ***** that** are created by short-term leases (terminable by either party on not more than 30 days' notice in writing).

(2) Land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. For purposes of this subdivision, land conveyed to or from a governmental agency shall include a fee interest, a leasehold interest, an easement, or a license.

(b) A local agency shall, by ordinance, provide a procedure for waiving the requirement for a parcel map, imposed by this division, including the requirements for a parcel map imposed by Section 66426. The procedure may include provisions for waiving the requirement for a tentative and final map for the construction of a condominium project on a single parcel. The ordinance shall require a finding by the legislative body or advisory agency, that the proposed division of land complies with requirements established by this division or local ordinance enacted pursuant thereto as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this division or local ordinance enacted pursuant thereto. In any case, where the requirement for a parcel map is waived by local ordinance pursuant to this section, a tentative map may be required by local ordinance

(c) If a local ordinance does not require a tentative map where a parcel map is required by this division, the subdivider shall have the option of submitting a tentative map, or if he or she desires to obtain the rights conferred by Chapter 4.5 (commencing with Section 66498.1), a vesting tentative map.

(Amended by Stats. 1984, Ch. 1113. Operative January 1, 1984. See note following Section 66498.1; Amended by Stats. 1989, Ch. 831; Amended by Stats. 1990, Ch. 1498; Amended by Stats. 1991, Ch. 745; Amended by Stats. 1994, Ch. 458; Amended by Stats. 2001, Ch. 176)

66434. Content of final map

The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey, and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits, and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches or 460 by 660 millimeters. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch or 25 millimeters. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing *** **on the map** shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves, and any information which may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

(d) Each parcel shall be numbered or lettered and each block may be numbered or lettered. Each street shall be named or otherwise designated. **The subdivision number shall be shown together with the description of the real property being subdivided.**

(e) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

If the map includes a "designated remainder" parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel. A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(f) On and after January 1, 1987, no additional requirements shall be included that do not affect record title interests. However, the map shall contain a notation or reference to additional information required by a local ordinance adopted pursuant to Section 66434.2.

(g) Any public streets or public easements to be left in effect after the subdivision shall be adequately delineated on the map. The filing of the final map shall constitute abandonment of all public streets and public easements not shown on the map, provided that a written notation of each abandonment is listed by reference to the recording data or other official record creating these public streets or public easements and certified to on the map by the clerk of the legislative body or the designee of the legislative body approving the map. Before a public easement vested in another public entity may be abandoned pursuant to this section, that public entity shall receive notice of the proposed abandonment. No public easement vested in another public entity shall be abandoned pursuant to this section if that public entity objects to the proposed abandonment.

(Amended by Stats. 1982, Ch. 87, Effective March 1, 1982.; Amended by Stats. 1985, Ch. 1504; Amended by Stats. 1994, Ch. 458; Amended by Stats. 1995, Ch. 579. Effective on October 4, 1995; Amended by Stats. 1997, Ch. 580; Amended by Stats. 2001, Ch. 176)

66434.1 Owner's Development Lien

In the event that an owner's development lien has been created pursuant to the provisions of Article 2.5 *** **(commencing with Section 17430) of Chapter 4 of Part 10.5** of the Education Code on the real property or portion thereof subject to the final map, a notice shall be placed on the face of the final map specifically referencing the book and page in the county recorder's office in which the resolution creating the owner's development lien was recorded. The notice shall state that the property subdivided is subject to an owner's development lien and that each parcel created by the recordation of the final map shall be subject to a prorated amount of the owner's development lien on a per acre or portion thereof basis.

(Added by Stats. 1979, Ch. 282, Effective July 24, 1979; Amended by Stats. 2001, Ch. 176)

66442.5 Engineer's/surveyor's statement

The following statements shall appear on a final map:

(a) Engineer's (surveyor's) statement:

This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of (name of person authorizing map) on (date). I hereby state that this final map substantially conforms to the conditionally approved tentative map.

(Signed) _____
R.C.E. (or L.S.) No. _____

(b) Recorder's certificate or statement.

Filed this ____ **day of** ____, **20** ____, **at** ____ **m. in Book** ____ **of** ____, **at page** ____, **at the request of** _____.

Signed _____
County Recorder

(Added by Stats. 2001, Ch. 176)

66445. Parcel map: preparation, content, and procedures

The parcel map shall be prepared by, or under the direction of, a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property, and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates or statements, affidavits, and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches or 460 by 660 millimeters. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch or 025 millimeters. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered or lettered and each block may be numbered or lettered. Each street shall be named or otherwise designated. **The subdivision number shall be shown together with the description of the real property being subdivided.**

(d) (1) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

(2) The map shall show the location of each parcel and its relation to surrounding surveys. If the map includes a "designated remainder" parcel or similar parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.

(3) A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(e) Subject to the provisions of Section 66436, a statement, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

With respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required, the statement shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" *** **means** fee title of record unless a leasehold interest is to be divided, in which case "record title ownership" *** **means** ownership of record of the leasehold interest. Record title ownership does not include ownership of mineral rights or other subsurface interests *** **that** have been severed from ownership of the surface.

(f) Notwithstanding any other provision of this article, local agencies may require that those statements and acknowledgments required pursuant to subdivision (e) be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(g) On and after January 1, 1987, no additional survey and map requirements shall be included on a parcel map *** **that** do not affect record title interests. However, the map shall contain a notation of reference to survey and map information required by a local ordinance adopted pursuant to Section 66434.2.

(h) Whenever a certificate or acknowledgment is made by separate instrument, there shall appear on the parcel map a reference to the separately recorded document. This reference shall be completed by the county recorder pursuant to Section 66468.1.

(i) If a field survey was performed, the parcel map shall contain a statement by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be set in those positions on or before a specified date, and that the monuments are, or will be, sufficient to enable the survey to be retraced.

(j) Any public streets or public easements to be left in effect after the subdivision shall be adequately delineated on the map. The filing of the parcel map shall constitute abandonment of all public streets and public easements not shown on the map, provided that a written notation of each abandonment is listed by reference to the recording data or other official record creating these public streets or public easements and certified to on the map by the clerk of the legislative body or the designee of the legislative body approving the map. Before a public easement vested in another public entity may be abandoned pursuant to this section, that public entity shall receive notice of the proposed abandonment. No public easement vested in another public entity shall be abandoned pursuant to this section if that public entity objects to the proposed abandonment.

(Amended by Stats. 1983, Ch. 1195; Amended by Stats. 1985, Ch. 1504; Amended by Stats. 1987, Ch. 982; Amended by Stats. 1994, Ch. 458; Amended by Stats. 1995, Ch. 579. Effective on October 4, 1995; Amended by Stats. 1997, Ch. 580; Amended by Stats. 2001, Ch. 176)

66449. Necessary certificates

The following statements shall appear on a parcel map:

(a) Engineer's (surveyor's) statement:

This map was prepared by me or under my direction (and was compiled from record data) (and is based upon a field survey) in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of (name of person authorizing map) on (date). I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any.

(Signed) _____
R.C.E. (or L.S.) No. _____

(b) Recorder's certificate or statement.

Filed this ____ day of ____, *** 20__, at ____ m. in Book ____ of ____, at page ____, at the request of _____.

Signed _____
County Recorder

(Amended by Stats. 1978, Ch. 335; Amended by Stats. 1987, Ch. 982; Amended by Stats. 2001, Ch. 176)

66455.3. Water supplier notice

Not later than five days after a city or county has determined that a tentative map application for a proposed subdivision, as defined in Section 66473.7, is complete pursuant to Section 65943, the local agency shall send a copy of the application to any water supplier that is, or may become, a public water system, as defined in Section 10912 of the Water Code, that may supply water for the subdivision.

(Added by Stats. 2001, Ch. 642)

66464. Transmittal to county recorder

(a) Unless otherwise provided by the county, if the final map or *** **parcel map** is not subject to Section 66493, after the approval by the city of a final map of a subdivision or a parcel map, the city clerk shall transmit the map to the county recorder.

(b) If a final map or parcel map is subject to Section 66493, after all certificates or statements and security required under Section 66493 have been filed and deposited with the clerk of the board of supervisors and approved by the county, the clerk of the board of supervisors shall certify or state that the certificates and statements have been filed and deposits have been made and shall transmit the final map or parcel map to the county recorder.

(c) After the approval by the county of a final or parcel map of a subdivision within unincorporated territory, the map shall be transmitted ultimately to the county recorder.

(Amended by Stats. 1983, Ch. 1224; Amended by Stats. 1985, Ch. 114. Effective June 28, 1985; Amended by Stats. 1987, Ch. 982; Amended by Stats. 2001, Ch. 176)

66469. Amendment of filed final or parcel map

After a final map or parcel map is filed in the office of the county recorder, it may be amended by a certificate of correction or an amending map for any of the following purposes:

(a) To correct an error in any course or distance shown thereon.

(b) To show any course or distance that was omitted **therefrom**.

(c) To correct an error in the description of the real property shown on the map.

(d) To indicate monuments set after the death, disability, retirement from practice, or replacement of the engineer or surveyor charged with responsibilities for setting monuments.

(e) To show the proper location or character of any monument which has been changed in location or character originally was shown at the wrong location or incorrectly as to its character.

(f) To correct any additional information filed or recorded pursuant to Section 66434.2, if the correction does not impose any additional burden on the present fee owners of the **real** property and does not alter any right, title, or interest in the real property reflected on the recorded map.

(g) To correct any other type of map error or omission as approved by the county surveyor or city engineer *** **that** does not affect any property right, *** **including**, but *** not limited to, lot numbers, acreage, street names, and identification of adjacent record maps.

As used in this section, "error" does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final or parcel map.

(Amended by Stats. 1977, Ch. 234. Effective July 7, 1977; Amended by Stats. 1990, Ch. 1001; Amended by Stats. 1996, Ch. 894; Amended by Stats. 2001, Ch. 176)

66470. Procedures for amendment

The amending map or certificate of correction shall be prepared and signed by a registered civil engineer or licensed land surveyor. An amending map shall conform to the requirements of Section 66434, if a final map, or subdivisions (a) to (d), inclusive, and (f) to (i), inclusive, of Section 66445, if a parcel map. The amending map or certificate of correction shall set forth in detail the corrections made and show the names of the *** fee owners of the **real** property affected by the correction or omission **on the date of the filing or recording of the original recorded map**. Upon recordation of a certificate of correction, the county recorder shall within 60 days of recording transmit a certified copy to the county surveyor or county engineer who shall maintain an index of recorded certificates of correction.

The county recorder may charge a fee, in addition to the fee charged for recording the certificate of correction, which shall be transmitted to the county surveyor or the county engineer, as compensation for the cost of maintaining an index of recorded certificates of correction. The amount of this additional fee shall not exceed the fee which is charged for recording the certificate of correction.

If the property affected by a map is located within a city, the county recorder shall, upon request of the city engineer, provide copies of recorded certificates of correction to the city engineer.

(Amended by Stats. 1977, Ch. 234. Effective July 7, 1977; Amended by Stats. 1985, Ch. 883; Amended by Stats. 1993, Ch. 906. Effective October 8, 1993; Amended by Stats. 2001, Ch. 176)

66472. Effect of amendment

The amending map or certificate of correction certified by the county surveyor, city surveyor, or city engineer shall be filed **or recorded** in the office of the county recorder in which the original map was filed. Upon *** **that** filing or recordation, the county recorder shall index the names of the fee owners **of the real property reflected on the original recorded map**, and the appropriate tract designation shown on the amending map or certificate of correction in the general index and map index respectively. Thereupon, the original map shall be deemed to have been conclusively so corrected, and thereafter shall impart constructive notice of all *** **those** corrections in the same manner as though set forth upon the original map.

(Added by Stats. 1974, Ch. 1536. Effective March 1, 1975; Amended by Stats. 1992, Ch. 634; Amended by Stats. 2001, Ch. 176)

66472.1. Further modifications

In addition to the amendments authorized by Section 66469, after a final map or parcel map is filed in the office of the county recorder, *** **the** recorded final map may be modified by a certificate of correction or an amending map, if authorized by local ordinance, if the local agency finds that there are changes in *** circumstances *** **that** make any or all of *** **the** *** conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the *** fee owners of the **real** property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and the local agency finds that the map as modified conforms to *** Section 66474. Any *** modification shall be set for public hearing as provided for in Section 66451.3 of this division. The legislative body shall confine the hearing to consideration of and action on the proposed modification.

(Added by Stats. 1981, Ch. 1184; Amended by Stats. 2001, Ch. 176)

66473.1. Energy conservation

- (a) The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.
- (b) (1) Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.
- (2) Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.
- (c) In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and *** **that** provision shall not result in reducing allowable densities or the percentage of a lot *** **that** may be occupied by a building or structure under applicable planning and zoning in *** **effect** at the time the tentative map is filed.
- (d) The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.
- (e) For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(Added by Stats. 1978, Ch. 1154.)

66473.7 Sufficiency of water supply

- (a) **For the purposes of this section, the following definitions apply:**
 - (1) "Subdivision" means a proposed residential development of more than 500 dwelling units, except that for a public water system that has fewer than 5,000 service connections, "subdivision" means any proposed residential development that would account for an increase of 10 percent or more in the number of the public water system's existing service connections.
 - (2) "Sufficient water supply" means the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to,

agricultural and industrial uses. In determining "sufficient water supply," all of the following factors shall be considered:

(A) The availability of water supplies over a historical record of at least 20 years.

(B) The applicability of an urban water shortage contingency analysis prepared pursuant to Section 10632 of the Water Code that includes actions to be undertaken by the public water system in response to water supply shortages.

(C) The reduction in water supply allocated to a specific water use sector pursuant to a resolution or ordinance adopted, or a contract entered into, by the public water system, as long as that resolution, ordinance, or contract does not conflict with Section 354 of the Water Code.

(D) The amount of water that the water supplier can reasonably rely on receiving from other water supply projects, such as conjunctive use, reclaimed water, water conservation, and water transfer, including programs identified under federal, state, and local water initiatives such as CALFED and Colorado River tentative agreements, to the extent that these water supplies meet the criteria of subdivision (d).

(3) "Public water system" means the water supplier that is, or may become as a result of servicing the subdivision included in a tentative map pursuant to subdivision (b), a public water system, as defined in Section 10912 of the Water Code, that may supply water for a subdivision.

(b) (1) The legislative body of a city or county or the advisory agency, to the extent that it is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, shall include as a condition in any tentative map that includes a subdivision a requirement that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be requested by the subdivision applicant or local agency, at the discretion of the local agency, and shall be based on written verification from the applicable public water system within 90 days of a request.

(2) If the public water system fails to deliver the written verification as required by this section, the local agency or any other interested party may seek a writ of mandamus to compel the public water system to comply.

(3) If the written verification provided by the applicable public water system indicates that the public water system is unable to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision, then the local agency may make a finding, after consideration of the written verification by the applicable public water system, that additional water supplies not accounted for by the public water system are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(4) If the written verification is not provided by the public water system, notwithstanding the local agency or other interested party securing a writ of mandamus to compel compliance with this section, then the local agency may make a finding that sufficient water supplies are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(c) The applicable public water system's written verification of its ability or inability to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision as required by subdivision (b) shall be supported by substantial evidence. The substantial evidence may include, but is not limited to, any of the following:

(1) The public water system's most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water Code.

(2) A water supply assessment that was completed pursuant to Part 2.10 (commencing with Section 10910) of Division 6 of the Water Code.

(3) Other information relating to the sufficiency of the water supply that contains analytical information that is substantially similar to the assessment required by Section 10635 of the Water Code.

(d) When the written verification pursuant to subdivision (b) relies on projected water supplies that are not currently available to the public water system, to provide a sufficient water supply to the subdivision, the written verification as to those projected water supplies shall be based on all of the following elements, to the extent each is applicable:

(1) Written contracts or other proof of valid rights to the identified water supply that identify the terms and conditions under which the water will be available to serve the proposed subdivision.

(2) Copies of a capital outlay program for financing the delivery of a sufficient water supply that has been adopted by the applicable governing body.

(3) Securing of applicable federal, state, and local permits for construction of necessary infrastructure associated with supplying a sufficient water supply.

(4) Any necessary regulatory approvals that are required in order to be able to convey or deliver a sufficient water supply to the subdivision.

(e) If there is no public water system, the local agency shall make a written finding of sufficient water supply based on the evidentiary requirements of subdivisions (c) and (d) and identify the mechanism for providing water to the subdivision.

(f) In making any findings or determinations under this section, a local agency, or designated advisory agency, may work in conjunction with the project applicant and the public water system to secure water supplies sufficient to satisfy the demands of the proposed subdivision. If the local agency secures water supplies pursuant to this subdivision, which supplies are acceptable to and approved by the governing body of the public water system as suitable for delivery to customers, it shall work in conjunction with the public water system to implement a plan to deliver that water supply to satisfy the long-term demands of the proposed subdivision.

(g) The written verification prepared under this section shall also include a description, to the extent that data is reasonably available based on published records maintained by federal and state agencies, and public records of local agencies, of the reasonably foreseeable impacts of the proposed subdivision on the availability of water resources for agricultural and industrial uses within the public water system's service area that are not currently receiving water from the public water system but are utilizing the same sources of water. To the extent that those reasonably foreseeable impacts have previously been evaluated in a document prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or the National Environmental Policy Act (Public Law 91-190) for the proposed subdivision, the public water system may utilize that information in preparing the written verification.

(h) Where a water supply for a proposed subdivision includes groundwater, the public water system serving the proposed subdivision shall evaluate, based on substantial evidence, the extent to which it or the landowner has the right to extract the additional groundwater needed to supply the proposed subdivision. Nothing in this subdivision is intended to modify state law with regard to groundwater rights.

(i) This section shall not apply to any residential project proposed for a site that is within an urbanized area and has been previously developed for urban uses, or where the immediate contiguous properties surrounding the residential project site are, or previously have been, developed for urban uses, or housing projects that are exclusively for very low and low-income households.

(j) The determinations made pursuant to this section shall be consistent with the obligation of a public water system to grant a priority for the provision of available and future water resources or services to proposed housing developments that help meet the city's or county's share of the regional housing needs for lower income households, pursuant to Section 65589.7.

(k) The County of San Diego shall be deemed to comply with this section if the Office of Planning and Research determines that all of the following conditions have been met:

(l) A regional growth management strategy that provides for a comprehensive regional strategy and a coordinated economic development and growth management program has been developed pursuant to Proposition C as approved by the voters of the County of San Diego in November 1988, which required the development of a regional growth management plan and directed the establishment of a regional planning and growth management review board.

(2) Each public water system, as defined in Section 10912 of the Water Code, within the County of San Diego has adopted an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) of the Water Code.

(3) The approval or conditional approval of tentative maps for subdivisions, as defined in this section, by the County of San Diego and the cities within the county requires written communications to be made by the public water system to the city or county, in a format and with content that is substantially similar to the requirements contained in this section, with regard to the availability of a sufficient water supply, or the reliance on projected water supplies to provide a sufficient water supply, for a proposed subdivision.

(l) Nothing in this section shall preclude the legislative body of a city or county, or the designated advisory agency, at the request of the applicant, from making the determinations required in this section earlier than required pursuant to subdivision (a).

(m) Nothing in this section shall be construed to create a right or entitlement to water service or any specific level of water service.

(n) Nothing in this section is intended to change existing law concerning a public water system's obligation to provide water service to its existing customers or to any potential future customers.

(o) Any action challenging the sufficiency of the public water system's written verification of a sufficient water supply shall be governed by Section 66499.37.

(Added by Stats. 2001, Ch. 642)

66474.5. Approval of land projects

(Added by Stats. 1974, Ch. 1536. Effective March 1, 1975; Repealed by Stats. 2001, Ch. 176)

66475.1. Bicycle paths

Whenever a subdivider is required pursuant to Section 66475 to dedicate roadways to the public, ***** the subdivider** may also be required to dedicate ******* additional land as may be necessary and feasible to provide bicycle paths for the use and safety of the residents of the subdivision. *******

(Added by Stats. 1974, Ch. 1536. Effective March 1, 1975; Amended by Stats. 2001, Ch. 873)

66475.2. Local transit facilities

(a) There may be imposed by local ordinance a requirement of **a** dedication or **an** irrevocable offer of dedication of land within the subdivision for local transit facilities such as bus turnouts, benches, shelters, landing pads and similar items ***** that** directly benefit the residents of a subdivision. ***** The** irrevocable offers may be terminated as provided in subdivisions (c) and (d) of Section 66477.2.

(b) * Only the payment of fees in lieu of the dedication of land may be required in subdivisions that consist of the subdivision of airspace in *** existing buildings into condominium projects, stock cooperatives, or community apartment projects, as those terms are defined in Section 1351 of the Civil Code.**

(Amended by Stats. 1979, Ch. 1192; Amended by Stats. 2001, Ch. 873)

66499.2. Mechanic's lien bond form

A bond or bonds by one or more duly authorized corporate sureties for the security of laborers and materialmen shall be in substantially the following form:

Whereas, The Board of Supervisors of the County of ____ (or City Council of the City of ____), State of California, and ____ (hereinafter designated as "**the principal**") have entered into an agreement whereby **the principal** agrees to install and complete certain designated public improvements, which ******* agreement, dated ____, ***** 20**_, and identified as project ____, is hereby referred to and made a part hereof; and

Whereas, Under the terms of ***** the** agreement, **the principal** is required before entering upon the performance of the work, to file a good and sufficient payment bond with the County of ____ (or the City of ____) to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, ***** the principal** and the undersigned as corporate surety, are held firmly bound unto the County of ____ (or the City of ____) and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the ******* agreement and referred to in ***** Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code** in the sum of ____ dollars (\$ ____), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to ***** this** work or labor, that ***** the** surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by county (or city) in successfully enforcing ***** this** obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of

Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of *** **the** agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on _____, *** **20**__.

(Added by Stats. 1974, Ch. 1536. Effective March 1, 1975; Amended by Stats. 2001, Ch. 176)

66499.35. Certificate of compliance

(a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant *** **to this division**. *** **If a local agency determines that the real property complies**, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division *** **of the real property** complies with applicable provisions of this division and of local ordinances enacted pursuant *** **to this division**. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant *** **to this division**, it shall issue a **conditional** certificate of compliance. A local agency may, as a condition to granting a **conditional** certificate of compliance, impose any conditions *** **that** would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and *** **that** had been established at that time by this division or local ordinance enacted pursuant *** **to this division**, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of **the** local ordinances *** who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant *** **to this division**, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of *** **this division or those** local ordinances *** , then the local agency may impose any conditions *** **that** would be applicable to a current division of the property. Upon making the determination and establishing the conditions, the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of these conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with these conditions shall not be required until the time *** **that** a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property *** **that** has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) (1) Each certificate of compliance or conditional certificate of compliance shall include information the local agency deems necessary, including, but not limited to, all of the following:

(A) Name or names of owners of the parcel.

(B) Assessor parcel number or numbers of the parcel.

(C) The number of parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.

(D) Legal description of the parcel or parcels for which the certificate of compliance **or conditional certificate of compliance** is being issued and recorded.

(E) A notice stating as follows:

This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.

(F) Any conditions to be fulfilled and implemented prior to subsequent issuance of a permit or other grant *** of approval for development of the property, as specified in the conditional certificate of parcel compliance.

(2) Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate *** of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each **such** parcel.

(Amended by Stats. 1982, Ch. 87, Effective March 1, 1982; Amended by Stats. 1983, Ch. 677; Amended by Stats. 1988, Ch. 1041; Amended by Stats. 1993, Ch. 500; Amended by Stats. 1994, Ch. 655; Amended by Stats. 2001, Ch. 873)

SUBDIVIDED LANDS

(Business and Professions Code)

Chapter 1. Subdivided Lands

11010. Public report

(a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

- (1) The name and address of the owner.
- (2) The name and address of the subdivider.
- (3) The legal description and area of lands.
- (4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. **For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.**

- (7) A true statement of the use or uses for which the proposed subdivision will be offered.
- (8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.
- (9) A true statement of the amount of indebtedness *** **that** is a lien upon the subdivision or any part thereof, and *** **that** was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and *** **that** is to pay for the construction or installation of any improvement or to furnish community or recreational

facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report immediately shall provide the department with the name, address, and telephone number of that district.

(12) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.

(13) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(14) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(15) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

(Amended by Stats. 1988, Ch. 1365; Amended by Stats. 1989, Ch. 1209. Effective October 1, 1989; Amended by Stats. 1991, Ch. 263.)

11010.11

Notwithstanding any provision in the purchase contract to the contrary, if the subdivision is to be used for residential purposes, the subdivision public report shall disclose that a prospective buyer has the right to negotiate with the seller to permit inspections of the property by the buyer, or the buyer's designee, under terms mutually agreeable to the prospective buyer and seller.

(Added by Stats. 2001, Ch. 307)

AIRPORT LAND USE PLANNING

(Public Utilities Code)

Chapter 4. Airports and Air Navigation Facilities

21670.3

(a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, is responsible for coordinating the airport planning of public agencies within the county and shall, on or before June 30, 2005, after reviewing the existing comprehensive land use plan adopted pursuant to Section 21675, adopt a comprehensive land use plan.

(b) Any comprehensive land use plan developed pursuant to Section 21675 and adopted pursuant to Section 21675.1 by the San Diego Association of Governments shall remain in effect until June 30, 2005, unless the San Diego County Regional Airport Authority adopts a plan prior to that date pursuant to subdivision (a).

(Added by Stats. 2001, Ch. 946)

APPLICATION OF LOCAL REGULATIONS TO OTHER LOCAL AGENCIES

(Government Code)

53091. Compliance with local ordinances

(a) Each local agency shall comply with all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated.

(b) On projects for which state school building aid is requested by a local agency for construction of school facilities, the county or city planning commission in which said agency is located shall consider in its review for approval information relating to attendance area enrollment, adequacy of the site upon which the construction is proposed, safety features of the site and proposed construction, and present and future land utilization, and report thereon to the State Allocation Board. If the local agency is situated in more than one city or county or partly in a city and partly in a county, the local agency shall comply with ***** the ordinances of each county or city with respect to the territory of the local agency which is situated in the particular county or city, and the ordinances of a county or city shall not be applied to any portion of the territory of the local agency which is situated outside the boundaries of the county or city.** Notwithstanding the preceding provisions of this section, this section does not require a school district or the state when acting under the State Contract Act (**Article 1 (commencing with Section 10100) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code**) to comply with the building ordinances of a county or city. *******

(c) Each local agency required to comply with building ordinances and zoning ordinances pursuant to this section and each school district whose school buildings are inspected by a county or city pursuant to Section 53092 shall be subject to the provisions of the applicable ordinances of a county or city requiring the payment of fees, but the amount of ***** those** fees charged to a local agency or school district shall not exceed the amount charged under the ordinance to nongovernmental agencies for the same services or permits. Building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, ***** wastewater**, or electrical energy by a local agency.

(d) Zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, or transmission of water, or for the production or generation of electrical energy, nor to facilities ***** that** are subject to Section 12808.5 of the Public Utilities Code, nor to electrical substations in an electrical transmission system ***** that** receives electricity at less than 100,000 volts. Zoning ordinances of a county or city shall apply to the location or construction of facilities for the storage or transmission of electrical energy by a local agency, ***** if the** zoning ordinances make provision for ***** those** facilities.

(Amended by Stats. 1977, Ch. 435; Amended by Stats. 1984, Ch. 976; Amended by Stats. 2001, Ch. 396)

53094. School districts

(a) Notwithstanding any other provision of this article, ***** this article does not require a school district to comply with the zoning ordinances of a county or city unless the zoning ordinance makes provision for the location of public schools and unless the city or county has adopted a general plan.**

(b) Notwithstanding subdivision (a), the governing board of a school district, that has complied with the requirements of Section 65352.2 of this code and Section 21151.2 of the Public Resources Code, by a vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by ***** the** school district. The governing board of the school district may not take this action when the proposed use of the property by the school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings.

(c) The governing board of the school district shall, within 10 days, notify the city or county concerned of ***** any** action taken pursuant to subdivision (b). If ***** the** governing board has taken such an action, the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of ***** the** action of the governing board of the school district to determine whether it was arbitrary and capricious. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that ***** the** action was arbitrary and capricious, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by ***** the** school district.

(Amended by Stats. 1984, Ch. 657; Amended by Stats. 1990, Ch. 275.)

THE OUTDOOR ADVERTISING ACT

(Business and Professions Code)

5403. Prohibited display locations

No advertising display shall be placed or maintained in any of the following locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:

- (a) If within the right-of-way of any highway.
- (b) If visible from any highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if likely to be mistaken for any permitted sign, or if intended or likely to be construed as giving warning to traffic, by, for example, the use of the words "stop" or "slow down."
- (c) If within any stream or drainage channel or below the floodwater level of any stream or drainage channel where the advertising display might be deluged by *** **flood waters** and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.
- (d) If not maintained in safe condition.
- (e) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.
- (f) If visible from any highway which is a part of the interstate or primary systems, and which is placed upon trees, or painted or drawn upon rocks or other natural features.
- (g) If any illumination *** **shall impair the vision of travelers on adjacent highways. Illuminations shall be considered vision impairing when its brilliance exceeds the values set forth in Section 21466.5 of the Vehicle Code.**
- (h) If visible from *** **a state regulated highway displaying any flashing, intermittent, or moving light or lights.**
- (i) **If, in order to enhance the display's visibility, the owner of the display or anyone acting on the owner's behalf removes, cuts, cuts down, injures, or destroys any tree, shrub, plant, or flower growing on property owned by the department that is visible from the highway without a permit issued pursuant to Section 670 of the Streets and Highways Code.**

(Added by Stats. 1970, Ch. 991; Amended by Stats. 2001, Ch. 284)

5405.6 Display on Metropolitan Transportation Authority property

Notwithstanding any other provision of law, no outdoor advertising display that exceeds 10 feet in either length or width, shall be built on any land or right-of-way owned by the Los Angeles County Metropolitan Transportation Authority, including any of its rights-of-way, unless the authority complies with any applicable provisions of this chapter, the federal Highway Beautification Act of 1965 (23 U.S.C.A. Sec. 131), and any local regulatory agency's rules or policies concerning outdoor advertising displays. The authority shall not disregard or preempt any law, ordinance, or regulation of any city, county, or other local agency involving any outdoor advertising display.

(Added by Stats. 2001, Ch. 928)